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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,937	07/31/2003	Mark J. Levine	930009-2011	9678

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FROMMER LAWRENCE & HAUG  
745 FIFTH AVENUE- 10TH FL.  
NEW YORK, NY 10151

EXAMINER
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LONEY, DONALD J

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/631,937

Applicant(s)

LEVINE ET AL.

Examiner

Donald Loney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☒ Claim(s) 22,23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5,9-13 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Schiel et al (5302251) as presented in the last office action mailed December 17, 2004.

Schiel et al teaches a belt wherein the fabric layer (23,24) is completely embedded in jacket material (22). The crests 27 can be considered the guide members. Refer to figure 2 and 6 along with column 4, line 65 through column 5, line 54.

3. Claims 1-16 and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Kiuchi (4559258) as presented in the last office action mailed December 17, 2004.

Kiuchi teaches a belt that contains two coatings thereon. They both appear to encapsulate about 50% of the fabric as stated in instant claims 1 and 18. The projections 13 (i.e. guides can be V-shaped). Refer to figure 2 along with column 3, line 67 through column 4, line 68.

4. Claims 1, 2 and 5-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagura et al (5840378) as presented in the last office action mailed December 17, 2004.

Nagura et al teaches a belt containing a fabric 2-6 containing a V-guide 8 at the ends of the belt that fills in at least 85% of the fabric structure. Claims 3 and 4 have

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been excluded from this rejection since they recite encapsulating the fabric structure while claim 1 only refers to the fabric caliper (i.e. thickness). Element 7 can be considered the coating of claim 18. Refer to figure 12 along with column 2, lines 17-43, column 5, lines 41-59 and column 6, lines 38-48.

### ***Response to Arguments***

5. Applicant's arguments filed March 21, 2005 have been fully considered but they are not persuasive. The applicant argues that the crests 27 in Schiel extend in the CD direction and not the MD direction as the applicants guides. However, the claims included in this rejection do not specify any specific direction of the guides, therefore, any ribs projecting above the surface of the fabric can be considered guides. The same applies to the arguments over Kiuchi. Not until claim 17 is a direction and/or location of the guides recited that would distinguish over these references. The applicant argues that the guides of Nagura only form 15% of the fabric structure. However, the applicant is only reciting how much of the fabric is encapsulated (i.e. 50% or more), of which 85% is encapsulated by Nagura. The applicant also argues that Nagura also teaches melt bonding and melt bonding cannot be equated with melt bonding. However, the applicant also recites melt bonding in claims 3, 4, 9 and 13.

### ***Allowable Subject Matter***

6. Claims 22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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7. The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to teach the stuffers used to control the depth of the coating per claim 22.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

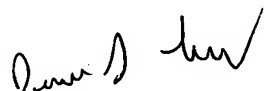
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Loney whose telephone number is (571) 272-1493. The examiner can normally be reached on Mon, Tues, Thurs and Fri. 8AM-4PM, flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Donald Loney  
Primary Examiner  
Art Unit 1772

DJL;D.Loney  
06/24/05